

LEGISLATIVE AUDIT DIVISION

Tori Hunthausen, Legislative Auditor
Deborah F. Butler, Legal Counsel



Deputy Legislative Auditors:
Cindy Jorgenson
Angus Maciver

MEMORANDUM

TO: Legislative Audit Committee Members
FROM: Katherine Guenther, Performance Auditor
CC: Richard Oppen, Director, Department of Public Health and Human Services
Roy Kemp, Interim Administrator, Quality Assurance Division
DATE: March 2013
RE: Performance Audit Follow-Up (13SP-01): Inspection and Complaint Activities for the Child Care Licensing Program (original 11P-11)
ATTACHMENT: Original Performance Audit Summary

Introduction

In October 2011, we presented our performance audit titled "Inspection and Complaint Activities for the Child Care Licensing Program." The audit included six recommendations to the Department of Public Health and Human Services (department). In early 2013, we conducted follow-up work to assess the implementation of the report recommendations. This memo summarizes the results of our follow-up work.

Overview

Initial audit work determined the Department of Public Health and Human Services should strengthen management of inspection and complaint processes for the Child Care and Licensing Program. We made six recommendations that focused on strengthening controls. Our review determined five of the recommendations are implemented and one recommendation is partially implemented.

Background

The Legislature enacted the Montana Child Care Act in 1989 to promote the availability and improve the quality of child care across the state. Located within the Quality Assurance Division of the Department of Public Health and Human Services, the Child Care Licensing Program is responsible for protecting the health, safety, and well-being of children receiving child care in Montana. The program registers, licenses, and monitors the state's child care facilities, which are also commonly referred to as providers. Registered providers are smaller facilities designated as family or group child care homes, while licensed providers are the larger facilities designated as child care centers.

Follow-up Audit Findings

The following sections summarize the progress toward implementation of the report recommendations. During our follow-up, we reviewed revised policies and documentation of procedures. We also interviewed management in Helena and two licensors in regional offices.

RECOMMENDATION #1

We recommend the Department of Public Health and Human Services establish and implement a protocol for the selection and prioritization of all inspection activities conducted in child care facilities.

Implementation Status – Implemented

The department has revised policy which defines and describes types of inspections and establishes guidelines for the selection of facilities for 20 percent inspections completed by the Child Care Licensing Program. Montana law requires the department to inspect 20 percent of family and group day care facilities annually. Priorities for 20 percent inspections, which are outlined in revised policy, include newly registered facilities, providers who have not had inspections within the last three to five years, and providers selected based on licensor discretion with supervisor approval. Revised policy also states routine inspections are prioritized at the discretion of the licensor. Department staff indicated 20 percent and routine inspection schedules are organized in accordance with this policy.

RECOMMENDATION #2

We recommend the Department of Public Health and Human Services establish and implement policy for following up on deficiencies identified in child care facilities based on type of deficiency.

Implementation Status – Implemented

Department policy outlines priorities for follow-up inspections and department staff indicated that these inspections are typically completed within 90 days. Follow-up inspections must occur when a deficiency is identified at a new facility, a deficiency is identified as the result of a complaint, or a deficiency causes concern for the health and safety of a child in a facility. The policy provides several examples of deficiencies that significantly affect a child's health and safety which include child elopement, safe sleep issues, injury of a child that resulted from a deficiency, and the use of inappropriate discipline. While these types of deficiencies have been identified as warranting a follow-up inspection, child care licensors are also able to conduct follow-up inspections of child care facilities that are outside the selection criteria after consulting the program manager.

RECOMMENDATION #3

We recommend the Department of Public Health and Human Services comply with state law, administrative rule, and department policy by:

- A. Clarifying the roles and responsibilities of management and staff for negative licensing actions.**
- B. Training staff on responsibilities for negative licensing actions.**
- C. Monitoring staff activities to ensure compliance with requirements for negative licensing actions.**

Implementation Status – Implemented

The department has updated policy to reflect the addition of a negative licensing checklist. The checklist provides steps regarding communication with the provider, resource and referral agencies, and parents, as well as changes that may need to be made to information in the licensing system. Department staff were trained via conference call regarding the updated policy and new checklist.

There were twelve negative licensing actions that resulted in revoked or probationary licenses from January 1, 2012 through December 31, 2012. According to department staff, since there are very few negative licensing actions throughout the state, the program manager is consulted before any action is taken. In addition to the communication between the licensors and the program manager, the program

manager has licensors send the negative licensing checklist to her midway through the negative licensing action to review their progress.

RECOMMENDATION #4

We recommend the Department of Public Health and Human Services establish and implement a policy for risk-based intake and response to child care facility complaints which defines complaint response timeframes and actions.

Implementation Status – Partially Implemented

The department has not implemented a risk-based intake and response to child care facility complaints but has updated policy regarding response timeframes. Department staff researched the risk-based processes used in Washington, Oregon, Colorado, and Oklahoma and developed a ‘white paper’ document clarifying why they have determined a risk-based response would not be effective for the department.

The department stated that 80 percent of child care facilities were visited within one week of receiving a complaint in fiscal year 2011. The department is concerned that a risk-based system would allow for more flexibility for response timeframes because there would be additional time allowed to address complaints that were not considered a “serious concern.” The increased flexibility, in turn, would decrease the percentage of on-site inspections completed within one week of receiving the complaint. Additionally, the department stated that unlike some of the other states reviewed, staff in Montana provides both licensing and investigative services. The department maintains that this type of organization allows licensors in Montana to develop relationships with providers which allows for licensors to respond to complaints based on their knowledge of a facility.

However, the department has updated policy to provide additional guidance regarding timeframes for investigating complaints. When a complaint is received, an investigation must be initiated within 24 hours. The type of action taken depends on the type of information received and if there is a need for additional information before an on-site inspection of the facility occurs. Policy states that inspections must be completed within seven days of receiving the complaint but outlines exceptions that may postpone an on-site inspection. If licensors cannot inspect a facility within seven day of receiving the complaint, they must contact the program manager.

In addition to the guidance on response timeframes, the program manager completes a quarterly review process. The program manager will randomly select complaint inspections each quarter from each licensor. The program manager will review areas such as the information entered into the child care licensing system and follow-up inspections. Additionally, the program manager can evaluate if inspections are completed within the timeframes specified in policy.

RECOMMENDATION #5

We recommend the Department of Public Health and Human Services formally define the roles, responsibilities, and documentation requirements for actions between the Child Care Licensing Program and Child and Family Services Division in child care facilities.

Implementation Status – Implemented

The department has updated policy regarding the roles and responsibilities of the Child Care Licensing Program and Child and Family Services Division (CFSD) with respect to child care facilities. Policy states that investigations can be conducted jointly or separately. If a joint investigation occurs, policy maintains that CFSD will take the lead in the investigation. The licensor must conduct an inspection within seven days of receiving a complaint.

The Child Care Licensing Program receives complaint alerts from the CFSD through their system called Child and Adult Protective Services System (CAPS). Expectations regarding documentation of the alerts from CAPS have been strengthened. Staff were trained on the documentation policy during a September 2011 staff meeting. The protocol for reviewing CAPS alerts has also recently been documented. This protocol includes expectations regarding contacting CFSD staff, where and how information should be documented, and when to contact the program manager.

RECOMMENDATION #6

We recommend the Department of Public Health and Human Services strengthen documentation controls to ensure consistent documentation of inspection and complaint activities of the Child Care Licensing Program.

Implementation Status – Implemented

The Child Care Licensing program utilizes two electronic systems. SansWrite is used by a licensor during an inspection to record the results of an inspection. Child Care Under the Big Sky (CCUBS) is used to record information regarding applications, renewals, inspections, and complaints related to a child care facility. SansWrite and CCUBS now interface and documentation procedures have been outlined in trainings and an inspection entry form that is available for licensors to use during the inspection process. Once an inspection is completed and a plan of correction accepted by the department, staff will archive the information on SansWrite and it will upload into CCUBS.

In addition to strengthening documentation within the electronic system, the department also established expectations for hardcopy file documentation. A file organization document was provided to staff during a training session. This outlines the information that should be included within the files regarding applications, correspondence, complaint information, inspection information, and employee paperwork.